

Notice of Allowability

Application No.

10/780,998

Examiner

Frank S. Tsay

Applicant(s)

JOHANSEN ET AL.

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Response to restriction filed on 2/10/06.
2. ☒ The allowed claim(s) is/are 1-6,8-11,16-20,22-25,28,30-41,44-52,55,69-75 and 95-98.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 7/6/04,11/22/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Frank S Tsay
Primary Examiner
Art Unit: 3672

DETAILED ACTION

Election/Restrictions

Applicant's election of Species I (Figs 3a-4) corresponding to Claims 1-6, 8-11, 16-20, 22-25, 28, 30-41, 44-52, 55, 69-75, 95-100 and 102-111 in the reply filed on February 10, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Furthermore, the election of Claims 99-100, and 102-111 is improper, because such are of different embodiments from Species I, as being clearly described in the disclosure on page 27 paragraphs 2 and 3 respectively.

Therefore, claims 7, 12-15, 21, 26, 27, 29, 42, 43, 53, 54, 56-68, 76-94, and 99-114 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected Species, there being no allowable generic or linking claim. The claims now in consideration for the merits include claims 1-6, 8-11, 16-20, 22-25, 28, 30-41, 44-52, 55, 69-75, and 95-98.

This application is in condition for allowance except for the presence of claims 7, 12-15, 21, 26, 27, 29, 42, 43, 53, 54, 56-68, 76-94, and 99-114 directed to species non-elected without traverse. **Accordingly, claims 7, 12-15, 21, 26, 27, 29, 42, 43, 53, 54, 56-68, 76-94, and 99-114 have been cancelled.**

Allowable Subject Matter

Claims 1-6, 8-11, 16-20, 22-25, 28, 30-41, 44-52, 55, 69-75, and 95-98 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art of record especially, Harris (US 5,353,870, Figs 2A, 2B) reference is considered to represent the most relevant state of the art, which discloses an apparatus having a movable barrier defining a first and second chamber, and a flapper check valve for configuring a flow path on the movable pressure barrier. The prior art of record, however at least fails to teach or suggest the check being capable of allowing fluid to flow in both directions between the two chambers in a second state.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

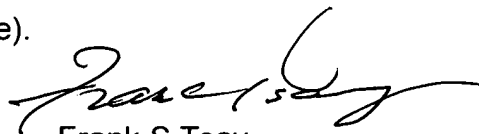
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Harris, Schultz, Tuzson, Childs et al, and Bolze et al all show fluid flow control apparatus having movable pressure barriers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank S. Tsay whose telephone number is (571) 272-7038. The examiner can normally be reached on Monday thru Friday, 7:30am-5:00 pm, 2nd Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on (571)272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Frank S Tsay
Primary Examiner
Art Unit 3672

4/12/06